



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

February 16, 2006

MARGARET TWEET
2715 NW 34TH CIRCLE
CAMAS WA 98607-8239

Subject: Complaint filed against Steve Stuart, Betty Sue Morris and Officials of CVTV –
PDC Case No. 06-281

Dear Ms. Tweet:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received October 21, 2005, and supplemented on November 2 and 3, 2005. In your complaint, you alleged that Steve Stuart, Betty Sue Morris and officials of Clark Vancouver Television (CVTV) used the program *Clark County Focus* to support incumbent candidates for office, that Steve Stuart used the program to oppose a statewide initiative, and that Commissioner Stuart used a countywide mailing to support his campaign for office, alleged violations of RCW 42.17.130.

PDC staff reviewed your complaint in light of the following statute and administrative rule:

RCW 42.17.130 prohibits elected officials and persons appointed to or employed by a public office or agency from using or authorizing the use of public facilities, directly or indirectly, for the purpose of assisting a candidate's campaign or for the promotion of, or opposition to, any ballot proposition. This prohibition does not apply to activities which are part of the normal and regular conduct of the office or agency, or to statements made by an elected official in response to a specific inquiry.

WAC 390-05-273 defines "normal and regular conduct" as conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner.

You alleged that the repeated airing of interviews with Betty Sue Morris and Steve Stuart on the CVTV program *Clark County Focus* in the periods immediately before the 2004 and 2005 general elections, respectively, supported the officials' campaigns for office, an alleged violation of RCW 42.17.130.



We found that:

- Local governments are authorized under federal and state law to grant franchises to cable television providers and to require as a part of these franchise agreements the provision of airtime for government access programming.
- The program *Clark County Focus* debuted in 1985 and has been broadcast on CVTV for 20 years. The program consists of interviews with Clark County Commissioners on subjects relevant to Clark County government. The interviews are conducted by members of the media.
- The interviews are taped in rotation, based on the district the commissioners represent. Officials representing the county's three districts have been interviewed in the same numerical order since the program's inception.
- The interviewers formulate their own questions without any input or guidance from CVTV, county staff, or the official being interviewed. The officials are not provided copies of the questions in advance.
- Tapings of *Clark County Focus* are scheduled based on the availability of the interviewers, the official being interviewed, and CVTV staff. Each episode continues to air until the next one is taped, and some episodes air over longer periods of time than others. Out of eleven instances since January of 2000 where an episode of *Clark County Focus* ran for more than one month, there were two cases in which this increase coincided with an incumbent commissioner's election campaign. There was no evidence that CVTV's practice of airing episodes of *Clark County Focus* until a new episode is taped was done for the purpose of assisting an incumbent commissioner's election campaign.
- There were five instances since January of 2000 in which a *Clark County Focus* episode was aired between the end of the candidate filing period in July and the date of the November general election and featured an interview with a candidate in that election. In three of these five cases, the number of airings was below the average number of airings for episodes taped that year. There was no evidence that the practice of airing interviews with commissioners who were also candidates for office was linked to increased exposure for those candidates.
- Neither the October 2004 *Clark County Focus* interview with Betty Sue Morris nor the October 2005 interview with Steve Stuart included statements supporting the officials' election campaigns.

You alleged that in his October 2005 *Clark County Focus* interview, Steve Stuart made statements in opposition to Initiative 912 without affording the initiative's supporters the opportunity to present their side, an alleged violation of RCW 42.17.130.

We found that:

- The discussion of I-912 in the October 2005 *Clark County Focus* interview followed from specific questions posed to Mr. Stuart by the media panel interviewers. There was no evidence that Mr. Stuart's answers were anything other than statements in response to a specific inquiry, which are allowed under the law. There is no disclosure law requirement for the initiative's supporters to be afforded an opportunity to respond.

You alleged that Clark County officials authorized a county-wide mailing on August 29, 2005, during an election campaign, and that this mailing supported the election of Steve Stuart by featuring his name, photo, and contact information on the front page, an alleged violation RCW 42.17.130.

We found that:

- Local governments are authorized by state law to conduct public outreach regarding changes to comprehensive plans established under the Growth Management Act.
- The August 2005 newsletter mailed by the Clark County Commissioners dealt primarily with a pending update to the county's comprehensive plan. Other than Steve Stuart's name and photo, there was no content in the newsletter that was specific to him, or any statements supporting his campaign.
- Clark County government has an established practice of communicating with county residents through countywide mailings. The distribution of these mailings has varied due to budgetary concerns. As a part of the county's normal and regular conduct, past mailings have featured photos of and articles concerning elected county officials, and have consistently included the names and contact information of the county commissioners.

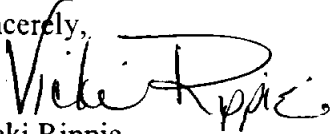
In your complaint, you stated that the Clark County Commissioners' August 2005 mailing and the CVTV *Clark County Focus* interviews were not in the public interest. You stated that such communications should be subject to restrictions similar to the franking cutoffs in effect at the federal and state legislative level. However, since such restrictions are not in place, staff investigated whether the conduct was authorized under current law, and whether it was effected or authorized in an extraordinary manner. Staff found that the conduct was normal and regular, and that it did not support or oppose any candidate or ballot measure in a manner prohibited by law.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Steve Stuart, Betty Sue Morris and

officials of CVTV. Steve Stuart, Clark County Commissioner, is being notified of this dismissal by separate letter.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

A handwritten signature in black ink, appearing to read "Vicki Rippie". The signature is fluid and cursive, with a large initial "V" and a stylized "R".

Vicki Rippie
Executive Director

c: E. Bronson Potter, Senior Deputy Prosecuting Attorney, Clark County
Judith Zeider, Chief Assistant City Attorney, City of Vancouver
Betty Sue Morris, Clark County Commissioner